

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 07, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARK PETERSON,

Plaintiff,

v.

CITY OF YAKIMA, TONY
O'ROURKE, MARK SOPTICH, and
ANTHONY DOAN,

Defendants.

NO. 1:18-CV-3136-TOR

ORDER DECLINING
SUPPLEMENTAL JURISDICTION
AND ORDER OF REMAND

SUA SPONTE, THE COURT raises the issue of its continuing jurisdiction over the only remaining claim in this case. The Court has reviewed the record and files herein and is fully informed.

DISCUSSION

The only claim left in this case is Plaintiff's claim of malicious prosecution under Washington State law. On October 13, 2023, the Ninth Circuit reversed in part and remanded that claim back to the district court. ECF No. 249. All other claims have been resolved.

1 A federal court has supplemental jurisdiction over pendent state law claims
2 to the extent they are “so related to claims in the action within [the court’s] original
3 jurisdiction that they form part of the same case or controversy” 28 U.S.C.
4 § 1367(a). “A state law claim is part of the same case or controversy when it
5 shares a ‘common nucleus of operative fact’ with the federal claims and the state
6 and federal claims would normally be tried together.” *Bahrampour v. Lampert*,
7 356 F.3d 969, 978 (9th Cir. 2004) (citation omitted). Once the court acquires
8 supplemental jurisdiction over state law claims, § 1367(c) provides that the court
9 may decline to exercise jurisdiction if

10 (1) the claim raises a novel or complex issue of State law, (2) the
11 claim substantially predominates over the claim or claims over which
12 the district court has original jurisdiction, (3) the district court has
13 dismissed all claims over which it has original jurisdiction, or (4) in
14 exceptional circumstances, there are other compelling reasons for
15 declining jurisdiction.

16 28 U.S.C. § 1367(c). Indeed, “[i]n the usual case in which all federal-law claims
17 are eliminated before trial, the balance of factors . . . will point toward declining to
18 exercise jurisdiction over the remaining state-law claims.” *Carnegie–Mellon Univ.*
19 *v. Cohill*, 484 U.S. 343, 350 n.7 (1988), superseded on other grounds by statute as
20 stated in *Sanford v. MemberWorks, Inc.*, 625 F.3d 550, 561 (9th Cir. 2010); *see*
also Acri v. Varian Assocs., Inc., 114 F.3d 999, 1001 (9th Cir. 1997) (en banc).

1 Here, the Court declines to retain supplemental jurisdiction for several
2 reasons. First, the Court no longer has any federal claims to proceed with. 28
3 U.S.C. § 1367(c)(3); *Ove v. Gwinn*, 264 F.3d 817, 826 (9th Cir. 2001) (finding that
4 a district court did not abuse its discretion by declining to exercise supplemental
5 jurisdiction over the remaining state law claims when federal claims were
6 dismissed).

7 Second, if Plaintiff chooses to try the case in state court, the parties'
8 completed discovery can easily be utilized in that forum.

9 Third, state court is a particularly appropriate forum in which to address
10 Plaintiff's remaining state law.

11 The values of judicial economy, convenience to the parties, fairness, and
12 comity would be no more advanced by retaining the case in this Court than by the
13 parties resolving the state law claim in state court.

14 For all of these reasons, the Court declines to exercise supplemental
15 jurisdiction over Plaintiff's remaining state law claim. *See* 28 U.S.C. § 1367(c)(3).

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1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 Pursuant to 28 U.S.C. § 1367(c)(3), Plaintiff's state law claim of malicious
3 prosecution is hereby **REMANDED** to the Superior Court in and for the County of
4 Yakima, former case number 17-2-034663-9.

5 The District Court Executive is directed to enter this Order, provide copies
6 to counsel, mail a certified copy of this Order to the Clerk of the Yakima County
7 Superior Court, and **CLOSE** the file.

8 **DATED** November 7, 2023.



10 *Thomas O. Rice*
THOMAS O. RICE
United States District Judge

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